

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1730.01
COMPLAINT INVESTIGATOR:	Jane Taylor-Holmes
DATE OF COMPLAINT:	April 12, 2001
DATE OF REPORT:	June 7, 2001
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	October 15, 2001

**COMPLAINT ISSUES:**

Whether the Department of Correction and the North Central Juvenile Correctional Facility violated:

511 IAC 7-25-3(i) with regard to the facility's alleged failure to conduct a comprehensive educational evaluation prior to determining a student is eligible for special education and related services.

511 IAC 7-25-4 with regard to the facility's alleged failure to conduct an educational evaluation and convene the case conference committee (the "CCC") within sixty instructional days of the date written parental consent is provided.

511 IAC 7-27-3 with regard to the facility's alleged failure to include all required participants at each student's CCC meeting.

511 IAC 7-27-4(a)(5) with regard to the facility's alleged failure to convene a CCC within ten instructional days of receiving a student into the facility who had been receiving special education in another state or another school district within the state.

511 IAC 7-27-4(c) with regard to the facility's alleged failure to utilize the CCC to develop or revise each student's *individualized education program* (the "*IEP*").

511 IAC 7-27-7(a) with regard to the facility's alleged failure to implement each student's *IEP* as written, specifically:

- a. failing to implement behavioral intervention plans when included in the *IEP*; and
- b. failing to provide equipment as described in the *IEP*.

511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the facility's alleged failure to ensure the students' teachers of record;

- a. ensure that each student's *IEP* is accessible to each of the student's teachers, related service providers, other service providers who are responsible for implementation of the *IEP*; and
- b. inform each teacher and provider of his or her specific responsibilities related to implementing each student's *IEP*.

During the course of the investigation, an additional issue was identified, which is:

Whether the Department of Correction and the North Central Juvenile Correctional Facility violated:

511 IAC 7-25-6(a) with regard to the school's alleged failure to conduct a reevaluation every thirty-six months for students receiving special education and related services.

An extension of time was granted to June 8, 2001, due to the complexity of the complaint. The original completion date was May 11, 2001.

#### **FINDINGS OF FACT:**

1. The students (the "Students") are incarcerated in a state juvenile correctional facility (the "Facility") where they receive educational services. The Students are eligible for special education and related services.
2. Teacher of record caseloads were faxed to the Division on May 1, 2001. The educational records of sixty-one students, taken from the teacher of record caseloads, were reviewed during an on-site visit to the Facility on May 7, 2001. Fifteen teachers were interviewed on May 17, 2001, at the Facility. Five of those teachers interviewed serve as teachers of record.
3. Educational records of 11 Students from teacher of record one's caseload ("TOR #1") showed that those Students entered the Facility already identified eligible for special education services. One of those Student's educational evaluation is more than three years old. Only two of the Students' case conference committee (the "CCC") meetings were held within 10 days of entering the Facility. Three Students' CCC meetings did not have the required participants with respect to Facility staff; however, their *IEPs* were written at that time.
4. Educational records of 15 Students from teacher of record two's caseload ("TOR #2") showed that those Students entered the Facility already identified eligible for special education services. Three of those Students' educational evaluations are more than three years old. Only one of the Student's CCC meeting was held within 10 days of entering the Facility. All of the 15 Students' CCC meetings included the required participants, and *IEPs* were written for the Students at that time.
5. Educational records of 21 Students from teacher of record three's caseload ("TOR #3") showed that those Students entered the Facility already identified eligible for special education services. Four of those Students' educational evaluations are more than three years old. Only one of the Student's CCC meeting was held within 10 days of entering the Facility. Two Students' CCC meetings did not have the required participants with respect to Facility staff; however, *IEPs* were written at that time.
6. Educational records of 12 Students from teacher of record four's caseload ("TOR #4") showed that those Students entered the Facility already identified eligible for special education services. Four of those Students' educational evaluations are more than three years old. Only one of the Student's CCC meeting was held within 10 days of entering the Facility. All of the Student's CCC meetings included the required participants, and *IEPs* were written for the Students at that time.
7. Educational records of two Students were provided by teacher of record five, who is the Facility's speech/language pathologist ("TOR #5"). The Student's records showed that both Students entered the Facility without being identified eligible for special education services. Both of the Students were given a comprehensive communication evaluation; however, only one of the Students had a CCC meeting at the time of the Facility on-site visit. That Student's CCC meeting was held within sixty instructional days of entering the Facility, and the Student was found eligible as a student with a communication disorder only. The CCC meeting included the required participants, and an *IEP* was written at that time. The other Student's CCC meeting was scheduled, and is within 60 instructional days.

8. Five of the 61 *IEPs* reviewed showed that the required participants with respect to Facility staff did not attend the CCC meetings. However, four teachers contend that their names are listed on *IEPs* as having participated in CCC meetings that they did not attend.
9. The Facility has recently started using a computerized program for developing Student *IEPs*, and in those instances the names of the CCC participants have been typed on the *IEP* form. The older version of the *IEP* forms includes an area for signatures.
10. The coordinator of special needs and the special education coordinator contend that the *IEPs* reflect the composition of the CCC meetings held. The coordinator of special needs has decided to install electronic signature equipment to the computer program to obtain the signatures of the participants at future CCC meetings.
11. A standard behavior contingency plan appears in the files of all general education and special education students incarcerated in the Facility. The Facility is now conducting functional behavior assessments and determining the need for BIPs for those Students who are receiving special education and related services.
12. The need for a calculator, spell check, assignment notebook, and manipulatives were indicated on some of the Students' *IEPs*. Although TOR #4 provides instruction to several Students whose *IEPs* include the accommodation of a calculator, TOR #4 does not allow the Students to use a calculator in class. Other teachers interviewed who provide instruction to Students whose *IEPs* include spell check, assignment notebooks, and manipulatives reported that they were not aware that those accommodations were in Students' *IEPs*.
13. Five teachers contend that they are not aware of their responsibilities regarding implementing *IEPs* of Students that they instruct. The remaining teachers interviewed reported that they were aware of their responsibilities as listed in the Students' *IEPs*.
14. One teacher contends that there is no procedure in place to inform the teachers of which students are eligible for special education services. However, fourteen teachers reported that they receive a weekly list of new students entering the Facility and that the list identifies those Students who are eligible for special education services.
15. Although the *IEPs* are not disseminated to the teachers, the teachers reported that they are aware of where the *IEPs* are maintained and that the *IEPs* are accessible.

## **CONCLUSIONS:**

1. Findings of Fact #2, #3, #4, #5, #6, and #7 indicate that of the 61 educational records reviewed, all but two Students entered the Facility already identified as eligible for special education and related services. Both of the Students who entered the Facility as general education students were subsequently given comprehensive communication evaluations. The CCC met to determine eligibility for one of the Students within the requisite 60 instructional days. At the time of this complaint investigation the other Student's CCC was in the process of being scheduled, and was within the 60 instructional days. No violation of 511 IAC 7-25-3(i) occurred.
2. Findings of Fact #2 and #7 indicate that only two of the 61 Students whose educational records were reviewed entered the Facility not identified as eligible for special education and related services.

However, one of the Students was evaluated and the CCC conducted within 60 instructional days. The other Student was evaluated and at the time of this complaint investigation, the CCC was in the process of being scheduled. No violation of 511 IAC 7-25-4 occurred.

3. Findings of Fact #2, #3, and #5 indicate that not all of the required participants with respect to Facility staff attended the CCC meetings of five of the 61 Students whose educational records were reviewed. A violation of 511 IAC 7-27-3 occurred.
4. Findings of Fact #2, #3, #4, #5, and #6 indicate that only 5 of the 61 Students whose educational records were reviewed, and had already been receiving special education and related services in another state or another school district within the state, had a CCC meeting within 10 instructional days of entering the Facility. A violation of 511 IAC 7-27-4(a)(5).
5. Findings of Fact #2, #3, and #5 indicate that not all of the required participants attended the CCC meetings of five of the 61 Students whose educational records were reviewed; however, *IEPs* were written for those five Students. A violation of 511 IAC 7-27-4(c) occurred.
- 6.a. Finding of Fact #11 indicates that the Facility utilizes a standard behavior contingency plan for all students incarcerated in the Facility. However, the Facility has just recently started to conduct functional behavioral assessments on Students and determining the need for BIPs for all Students. Because there are no BIPs in place for Students, no violation of 511 IAC 7-27-7(a) with regard to implementing BIPs can be found.
- 6.b. Finding of Fact #12 indicates that only one teacher interviewed did not allow Students whose *IEPs* identified a calculator as an accommodation the use of said accommodation. Further, other teachers interviewed regarding identified Student accommodations were not aware of said accommodations. A violation of 511 IAC 7-27-7(a) occurred with regard to providing equipment to Students as described in their *IEPs*.
- 7.a/b Although Finding of Fact #15 indicates that all of the teachers interviewed were aware of where the Students' *IEPs* are maintained and that they are accessible, Findings of Fact #12, #13, and #14 indicate that the majority of teachers have not been informed by the Facility's TORs of their respective *IEP* responsibilities. A violation of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 occurred.
8. Findings of Fact #3, #4, #5, and #6 indicate that of the 61 Students' educational records reviewed, twelve Students have educational evaluations that are more than thirty-six months old. A violation of 511 IAC 7-25-6(a) occurred.

**The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Department of Correction and the North Central Juvenile Correctional Facility shall:

1. review and revise procedures to ensure that all required participants are in attendance at Student CCC meetings. A copy of the procedure shall be submitted to the Division no later than July 13, 2001. Further, all *CCC Reports* from meetings conducted for the months of July, August, and September 2001, shall be submitted to the Division at the end of each respective month, and shall include the electronic signatures of all required participants.

2. develop a procedure to ensure that all CCC meetings are conducted within 10 instructional days from when a Student enters the Facility. A copy of the procedure shall be submitted to the Division no later than July 13, 2001.
3. incorporate an assurance statement into the procedure to be submitted no later than July 13, 2001, (Corrective Action #1) that all Student *IEPs* shall be written only during CCC meetings.
4. develop a procedure for all TORs to utilize so that all of the Facility's teachers, related service providers, and other service providers are informed of their *IEP* responsibilities, e.g. the requirement to provide Students with identified accommodations and equipment as written in the *IEPs*. A copy of the procedure shall be submitted to the Division no later than July 13, 2001.

Further, conduct an inservice training with all of the Facility's educational staff regarding TOR responsibilities, and staff responsibility for implementing Student *IEPs*. A copy of the inservice training agenda, along with a list of attendees by name and title, shall be submitted to the Division no later than July 13, 2001.

Additionally, a statement assuring that all Student *IEPs* shall be implemented as written shall be signed by all of the Facility's educational staff and submitted to the Division no later than July 13, 2001.

5. review all Student educational records and compile a list of those Students whose thirty-six month reevaluations are overdue. Develop a plan of action with specific timelines for conducting thirty-six month reevaluations. The plan of action, along with the names of Students to be reevaluated shall be submitted to the Division no later than July 13, 2001. Further, a copy of the first page of each Student reevaluation shall be submitted to the Division no later than one week after the re-evaluation has been completed. All re-evaluations shall be completed no later than August 31, 2001.